



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office  
33 Whitehall St, 5th Floor  
New York, NY 10004  
(929) 506-5270  
Website: [www.eeoc.gov](http://www.eeoc.gov)

### **NOTICE OF CHARGE OF DISCRIMINATION**

(This Notice replaces EEOC FORM 131)

01/26/2023

**To:** NYC Department of Investigation  
180 MAIDEN LN  
NEW YORK, NY 10038

This is notice that a charge of employment discrimination has been filed with the EEOC against your organization by Matthew O'Leary under: Title VII of the Civil Rights Act of 1964 (Title VII). The circumstances of the alleged discrimination are based on Religion, and involve issues of Reasonable Accommodation, Discharge that are alleged to have occurred on or about 06/30/2022.

The Digital Charge System makes investigations and communications with charging parties and respondents more efficient by digitizing charge documents. The charge is available for you to download from the EEOC Respondent Portal, the EEOC's secure online system.

Please follow these instructions to view the charge within ten (10) days of receiving this Notice:

1. Access the EEOC's secured online system at <https://arc.eeoc.gov/rsp/login.jsf>
2. Enter this EEOC Charge No.: 520-2023-02100
3. Enter this password: nzflNOmXY

Once you log into the system, you can view and download the charge, and electronically submit documents to EEOC. The system will also advise you of possible actions or responses and identify your EEOC point of contact for this charge.

If you are unable to log into the EEOC Respondent Portal or have any questions regarding it, you may send an email to [NEWYACT@EEOC.GOV](mailto:NEWYACT@EEOC.GOV).

## **Preservation of Records Requirement When a Charge has Been Filed**

The EEOC regulations require respondents to preserve all payroll and personnel records relevant to the charge until final disposition of the charge or litigation. 29 CFR §1602.14. For more information on your obligation to preserve records, see <http://eeoc.gov/employers/recordkeeping.cfm>.

## **Non-Retaliation Requirements**

The laws enforced by the EEOC prohibit retaliation against any individual because s/he has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing under these laws. Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify the EEOC if any attempt at retaliation is made. For more information, see <http://www.eeoc.gov/laws/types/facts-retal.cfm>.

## **Legal Representation**

Although you do not have to be represented by an attorney while we handle this charge, you have a right, and may wish to retain an attorney to represent you. If you do retain an attorney, please provide the attorney's contact information when you log in to the online system.

Please retain this notice for your records.



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## CHARGE OF DISCRIMINATION

For Official Use Only – Charge Number:

EEOC Form 5A (October 2017)

<b>Personal Information</b>	<p>First Name: Matthew MI: L Last Name: O'Leary Address: _____ Apt.: _____ City: _____ County: _____ State: NY Zip Code: _____ Phone: _____ Home <input type="checkbox"/> Work <input type="checkbox"/> Cell <input checked="" type="checkbox"/> Email: _____</p>
<b>Who do you think discriminated against you?</b>	<p>Employer <input checked="" type="checkbox"/> Union <input type="checkbox"/> Employment Agency <input type="checkbox"/> Other Organization <input type="checkbox"/> Organization Name: New York City - Department of Investigation Address: 180 Maiden Lane Suite: _____ City: New York State: NY Zip Code: 10038 Phone: _____</p>
<b>Why you think you were discriminated against?</b>	<p>Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input checked="" type="checkbox"/> Sex <input type="checkbox"/> National Origin <input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Genetic Information <input type="checkbox"/> Retaliation <input type="checkbox"/> Other <input type="checkbox"/> (specify) _____</p>
<b>What happened to you that you think was discriminatory?</b>	<p><b>Date of most recent job action you think was discriminatory:</b> 6/30/2022 <b>Also describe briefly each job action you think was discriminatory and when it happened (estimate).</b> My religious beliefs prohibit me from taking the covid-19 vaccine. I can provide the religious support for which my beliefs stems. I applied for a religious exemption to my employer but was denied. I then appealed this decision, but that appeal was denied, and I was provided only with a "does not meet criteria" as the explanation. I was placed on leave without pay (essentially, a suspension) on December 24, 2021, and then terminated on February 11, 2022. I was only given a 15-minute opportunity to answer questions DOI copied from the internet to validate my employer's concerns over whether my beliefs were sincerely held. They did not provide me a meaningful and serious opportunity to do so. The discrimination came in the form of being put on leave without pay and subsequently termination. While waiting for both my exemption and appeal to be evaluated, I was able to continue my duties at work while submitting weekly proof of negative test results. I was given no reason why I could not be granted an exemption whereby I could continue providing weekly negative test results. Another colleague with similar beliefs was approved on his appeal. On June 17th, 2022, I was informed by DOI that I could "return to employment if [I] become fully vaccinated," with a June 30th 2022 deadline for submitting proof of a first dose of vaccination. This was sent by the same Human Resource Director who was aware from my exemption request that I cannot receive the vaccine for religious reasons. I was not offered another opportunity to provide a reasonable accommodation request, whereas a new hire would have such an opportunity. This was not an opportunity to be rehired, but an offer to resume my former job. This was the most recent event of discrimination. This also was the last opportunity that the NYC DOI provided me to return to my former employment. After June 30th, 2022, my termination was final and binding. Therefore, this was the most recent job action of a discriminatory nature. I can provide upon request a paper trail for the entirety of my application and denial for a reasonable accommodation as well as my termination.</p>
<b>Signature and Verification</b>	<p>I understand this charge will be filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address, phone, or email. I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p> <p>I understand by signing below that I am filing a charge of employment discrimination with the EEOC. I understand that the EEOC is required by law to give a copy of the charge, which includes my allegations and my name, to the organization named above. I also understand that the EEOC can only investigate charges of job discrimination based on race, color, religion, sex, national origin, age, disability, genetic information, or based on retaliation for filing a charge of job discrimination, participating in an investigation of a job discrimination complaint, or opposing job discrimination.</p> <p><b>I declare under penalty of perjury that the above is true and correct.</b></p> <p>Signature: <u>Matthew O'Leary</u> Date: <u>12/22/2022</u></p>

**PRI VACY ACT STATEMENT:** Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

- 1. FORM NUMBER/ TITLE/ DATE.** EEOC Form 5A, Charge of Discrimination, Issued October 2017.
- 2. AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
- 3. PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
- 4. ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
- 5. WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging party and respondent and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

#### **NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW**

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

#### **NOTICE OF NON-RETALIATION REQUIREMENTS**

Please **notify** EEOC or the state or local agency where you filed your charge if **retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of rights under the Act.

AMENDED CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

EEOC

Agency(ies) Charge No(s):  
520-2023-02100

FEPA

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs., Miss, Mx., Dr., Hon., Rev.)

Mr. Matthew O'Leary

Home Phone

Year of Birth

Street Address

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

NYC Department of Investigation

No. Employees, Members

Phone No.

501+ Employees

Street Address

180 MAIDEN LN

NEW YORK, NY 10038

Name

No. Employees, Members

Phone No.

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON

DATE(S) DISCRIMINATION TOOK PLACE

Religion, Retaliation

Earliest

12/21/2021

Latest

02/16/2023

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

My name is Matthew O'Leary, and I am Christian and Roman Catholic. I began working for the NYC Department of Investigation on or around July 10, 2017, as an Electronic Discovery Manager. My sincerely held religious beliefs prohibit me from taking the covid-19 vaccine. I can provide the religious support for which my beliefs stem. I applied for a religious exemption to my employer but was denied. I then appealed this decision, but that appeal was denied, and I was provided only with a "does not meet criteria" as the explanation. I was placed on leave without pay (essentially, a suspension) on December 24, 2021, and then terminated on February 11, 2022. I was only given a 15-minute opportunity to answer questions DOI copied from the internet to validate my employer's concerns over whether my beliefs were sincerely held. They did not provide me a meaningful and serious opportunity to do so. The discrimination came in the form of being put on leave without pay and my subsequent termination. While waiting for both my exemption and appeal to be evaluated, I was able to continue my duties at work while submitting weekly proof of negative test results. I was given no reason why I could not be granted an exemption whereby I could continue providing weekly negative test results. Another colleague with similar beliefs was approved on his appeal. On June 17th, 2022, I was informed by DOI that I could "return to employment if [I] become fully vaccinated," with a June 30th, 2022, deadline for submitting proof of a first dose of vaccination. This was sent by the same Human

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY – When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

02/17/2023

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

Charging Party Signature

<b>AMENDED CHARGE OF DISCRIMINATION</b>	Charge Presented To:	Agency(ies) Charge No(s):
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.	EEOC FEPA	<b>520-2023-02100</b>
<b>New York State Division Of Human Rights</b>		and EEOC
<i>State or local Agency, if any</i>		

Resource Director who was aware from my exemption request that I cannot receive the vaccine for religious reasons. I was not offered another opportunity to provide a reasonable accommodation request, whereas a new hire would have such an opportunity. This was not an opportunity to be rehired, but an offer to resume my former job. This was the most recent event of discrimination. This also was the last opportunity that the NYC DOI provided me to return to my former employment. After June 30th, 2022, my termination was final and binding. Therefore, this was the most recent job action of a discriminatory nature. I believe I have been discriminated and retaliated against because of my religion, Christian and Roman Catholic, in violation of Title VII of the Civil Rights Act of 1964, as amended.

02/16/2023: My name is Matthew O'Leary, and I am Christian and Roman Catholic. I began working for the NYC Department of Investigation on or around July 10, 2017, as an Electronic Discovery Manager. My sincerely held religious beliefs prohibit me from taking the covid-19 vaccine. I can provide the religious support for which my beliefs stem. I applied for a religious exemption to my employer but was denied. I then appealed this decision, but that appeal was denied, and I was provided only with a "does not meet criteria" as the explanation. I was placed on leave without pay (essentially, a suspension) on December 24, 2021, and then terminated on February 11, 2022. I was only given a 15-minute opportunity to answer questions DOI copied from the internet to validate my employer's concerns over whether my beliefs were sincerely held. They did not provide me a meaningful and serious opportunity to do so. The discrimination came in the form of being put on leave without pay and my subsequent termination. While waiting for both my exemption and appeal to be evaluated, I was able to continue my duties at work while submitting weekly proof of negative test results. I was given no reason why I could not be granted an exemption whereby I could continue providing weekly negative test results. Another colleague with similar beliefs was approved on his appeal. On June 17th, 2022, I was informed by DOI that I could "return to employment if [I] become fully vaccinated," with a June 30th, 2022, deadline for submitting proof of a first dose of vaccination. This was sent by the same Human Resource Director who was aware from my exemption request that I cannot receive the vaccine for religious reasons. I was not offered another opportunity to provide a reasonable accommodation request, whereas a new hire would have such an opportunity. This was not an opportunity to be rehired, but an offer to resume my former job. This was the most recent event of discrimination. This also was the last opportunity that the NYC DOI provided me to return to my former employment. After June 30th, 2022, my termination was final and binding. Therefore, this was the most recent job action of a discriminatory nature. I believe I have been discriminated and retaliated against because of my religion, Christian and Roman Catholic, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY – <i>When necessary for State and Local Agency Requirements</i>
I declare under penalty of perjury that the above is true and correct.	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. <b>SIGNATURE OF COMPLAINANT</b>
<b>Digitally Signed By: Mr. Matthew O'Leary</b> <b>02/17/2023</b>	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <i>(month, day, year)</i>
<i>Charging Party Signature</i>	